

BRIAN KELLY FERGUSON,

Plaintiff,

v.

CAPTAIN CHRIS BRACKETT,

Defendants.

THIS MATTER comes before the Court on Plaintiff's Motion to Subpoena Medical Records filed May 20, 2009 (doc. No. 28) and letter to the Court filed May 21, 2009 (Doc. No. 29). In his letter, which this Court has considered as a motion for reconsideration, Plaintiff explains that he filed a motion with the Court in March asking for additional time to respond to Defendant's Motion for Summary Judgment. This Court did not receive any such motion and notes that this motion is also not reflected on the docket.

In his Complaint against the Caldwell County Jail¹ and Captain Chris Brackett, Plaintiff contends that in December 2006, he asked “detention center officials” to move him after learning that his cell mate had active tuberculosis and his request was refused. Several months later in September 2007, Plaintiff tested positive for tuberculosis and was provided medications and treatment by the Caldwell County Health Department. However, “Capt. Chris Brackett of the Caldwell County Detention Center, interrupted the prescribed treatment, of his own person, therefore causing a failure to provide treatment by not allowing outside care to be given for the Petitioner’s

¹ The Caldwell County Jail was dismissed as a Defendant by order dated July 31, 2008 (Doc. No. 3.)

serious medical need to be adequately treated.” (Complaint at 3.)

In an Order dated March 12, 2009, this Court considered and granted Defendant’s Motion for Summary Judgment (Doc. No. 27). While the Court noted that Petitioner did not file a response to Defendant’s Motion for Summary Judgment, such failure to respond was not dispositive of Defendant’s Motion for Summary Judgment. Indeed, the Court considered the entire record and concluded that Plaintiff’s conclusory allegations did not support his claim of deliberate indifference.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

(1) Defendant’s Motion to Subpoena Medical Records is Denied as Moot;

(2) Plaintiff’s letter, which this Court construes as a motion for reconsideration, is DENIED;

and

(3) To the extent Plaintiff wishes to appeal this Court’s decision, Plaintiff should file a document in this Court entitled “Notice of Appeal” within thirty (30) days of the date of this Order.

See Fed. R. App. P. 4(a)(4) and 4(c).

SO ORDERED.

Signed: May 26, 2009

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

